

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

March 20, 2023

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Siette Na Liheslaturan Guåhan

37th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Re: BILL NO. 12-37 (COR) AN ACT TO AMEND § 60112 OF CHAPTER 60, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING PRIOR APPROVAL FROM THE LEGISLATURE BEFORE PURCHASING OR ENTERING INTO A LEASE, LICENSE, OR SUBLEASE OF PROPERTY OWNED BY THE FEDERAL GOVERNMENT, FOREIGN GOVERNMENT, OR SUBENTITIES THEREOF FOR A TERM IN EXCESS OF FIVE YEARS

BILL NO. 13-37 (COR) AN ACT TO AMEND § 83102(D) AND ADD A NEW § 83116, TO CHAPTER 83, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO INCREASING PUBLIC NOTICE AND TRANSPARENCY OF THE ACTIONS BY THE GUAM TWENTY-FIRST CENTURY HEALTHCARE CENTER COMMITTEE RESPONSIBLE FOR THE PROPOSED MEDICAL HEALTHCARE CAMPUS

Hafa Adai Madame Speaker,

Bill Nos. 12-37 (COR) and 13-37 (COR) seek to inject the Legislature into the work of establishing a hospital, legislative action that threatens to mire the project in bureaucracy, derail the coordinated and careful planning by subject-matter experts from executive branch agencies, and completely obstruct the establishment of critical infrastructure, to a degree it endangers the health and well-being of our people.

At the outset, I cannot help but express my disappointment that certain members of the Legislature have preyed on the vulnerability of our own people, selling them fool's gold and the promise of a land return these so-called leaders will never be able to deliver, knowing that by the time the people realize they have been misled, the mistake will be too late to reverse.

The federal government's control over certain lands on Guam is an open wound for many families on our island, who believe their ancestral land was taken unjustly, without consent, and in some

cases, without compensation. Their despair over this perceived injustice has caused many of these families to turn to politicians who peddle promises to return their land, however empty those promises are. I cannot and do not blame these families for their broken hearts, but I must condemn the shameless exploitation of their pain for political gain, and the pompous bluster of certain politicians seeking to advance their political brand. Tai mamåhlao.

To the families of Eagles Field, to all families on Guam who have waited for generations for the return of their ancestral lands, and to those who wait still, I am going to tell you the truth, as I always have. That is my job as your governor. It may be difficult to accept, as the truth often is. Ti bai hu dagi hamyo.

The world is changing, and, through no fault of yours or mine, our island finds itself once again at the center of global conflicts not of our making, but in which we are called to serve and in which we *will* be involved one way or another by virtue of our location. We are a part of the United States, the closest American soil to the Asian continent. While, for decades, the U.S. military worked to reduce its footprint on our island, and to designate excess lands in the federal government's control for return to our local government, that course appears to be changing. As the U.S. military works to build defenses on Guam that will keep our island and the rest of the nation safe, land that was once intended for return is being reconsidered and redesignated. This includes Eagles Field.

Though Admiral Nicholson has said this many times in various media interviews and statements, and in the last week reiterated it to members of the Legislature, it seems many in our community were not aware of this shift in the military's stance on land returns. I understand why many in our community are disappointed by this information. I am also disappointed. I know our people are patient and resilient. I know this setback does not mean there is no future for families hoping to be reunited with their ancestral lands. As Dr. Martin Luther King said, "the arc of the moral universe is long but it bends towards justice." I believe that our people will ultimately receive justice. But my heart goes out to the families pained with the knowledge that their time has not yet come, and that we cannot say with certainty when that time will come.

There is a second impediment to the land returns promised by these insincere politicians. Decades ago, the U.S. Congress passed a law that prevents our government from returning excess lands to ancestral owners. Instead, such lands must be used for a public purpose. Our current delegate James Moylan has introduced a bill in Congress to amend this law and to provide a path for our government to transfer returned excess lands to ancestral owners. In recent interviews, Congressman Moylan has himself acknowledged the shrinking potential that lands will be returned to Guam, if at all, any time soon given the current geopolitical climate. But I remain hopeful that Congress will amend the law restricting returns to ancestral owners, and that someday, this path will be open again to our people.

This leads us to the current political conflict involving Eagles Field. The federal government will not agree to return the land to our government, regardless of how we ultimately want to use or distribute it. They have chosen to retain that land in their inventory. However, due to an existing commitment they made to me, and the reciprocal benefit they believe the project will yield to

national security interests, the federal government has agreed to *lease* the land to our government for the sole purpose of building a new public hospital.

It is generally accepted that hospitals have a useful lifespan of approximately 40 years. The Guam Memorial Hospital is now 40 years old, and has reached its anticipated lifespan. Renovation is not possible – the cost to renovate GMH would exceed the cost to construct a new hospital. Demolition and rebuilding in place is also not tenable – we do not have sufficient medical facility space to service our community elsewhere during construction, and the available area at the current location will not sufficiently accommodate the growing needs of our community.

The Eagles Field property contains 102 acres. The ancestral landowners who own the largest parcels of land in the area would prefer to receive monetary compensation over land back. To this end, on January 30, 2023, I introduced the Land Bank Reform Act, to give these landowners a path to receive compensation for their ancestral lands currently in the federal inventory but on lease to the government of Guam. Unfortunately, these same senators who claim to be acting in the best interest of our Eagles Field families have refused to advance the bill, and why should they? By denying these landowners the monetary compensation they prefer to receive, these senators can continue to claim that I am standing in the way of these families being made whole. These senators don't care if they are themselves victimizing these families, as long as they can scapegoat someone else as a villain.

Still, there are some families who would prefer to have their land back. It is a small minority, who have claims to land comprising only a few acres, but the size of their lots does not make their claims any less valid. I am communicating with the Guam Economic Development Authority and the Department of Land Management to determine whether it is possible to carve out these properties, which are on the outside edge of the lease area. If this is possible, these families can preserve the *status quo* and continue to wait for a land return from the federal government, coupled with a change to the federal law that will allow the ultimate transfer of the land to them, unlikely as these prospects may seem at the present time.

For my part, I believe that once the property is in extensive use by the government of Guam, it will be easier to advocate for a full return. I have expressed this in communications with the federal government – that I intend to seek an eventual return of the leased property. As it is, the lease is for a period of 50 years, a decade longer than the estimated lifespan of a hospital.

Another benefit to entering this lease with the federal government is that it will prevent the federal government from using the land for other purposes. The possible use of the property for a missile defense system has been circulating for over a year. In fact, I had to meet with federal officials in Washington, D.C. to advocate that the federal government fulfill the commitment they made to our island to allow us to use Eagles Field for our medical complex. More recently, Admiral Nicholson has indicated that the land would be suitable for other military projects, including the construction of housing for servicemembers and their families. To this end, on March 15, 2023, he sent me a notice formalizing the position he has been asserting on behalf of the federal government all along: that if Guam does not enter into the lease for Eagles Field by April 3, 2023, the property “will be rededicated to future military use to meet mission requirements.”

To: Therese M. Terlaje, Speaker, 37th Guam Legislature
Fr: Lourdes A. Leon Guerrero, Governor of Guam
Date: March 20, 2023
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Restoring the Eagles Field property to the original owners is not an option. There are only two available options: use the property for a medical complex, or allow the military to take it back for whatever purposes they see fit, for the foreseeable future. Without question, both options are unfair to uncompensated Eagles Field families who prefer to have their land back instead of receiving compensation. But I hope we can all agree that one of these options is better for Guam. If the families whose lands are enclosed within the gates at Andersen Air Force base were given the alternative to have their ancestral lands serve the people of Guam, including future generations of their family, I believe they would endorse this option wholeheartedly.

Because the truth about these available options has been publicly exposed, the obstructionist politicians have started to distance themselves from the lurid, hardline all-or-nothing land return position they used to entice ancestral owners, and they have started to pivot to other supposed concerns, including alleged legal concerns about the provisions of the lease itself. I am confident about the legality and legal sufficiency of the lease, and I am confident that when the Attorney General of Guam completes his review of the lease, he will approve it.

In furtherance of my efforts to ensure a full legal review of the lease, on Monday, March 14, 2023, I met with Attorney General Moylan and Admiral Nicholson to discuss the status of the lease for the medical complex and to provide him with a copy of the lease and attachments. At this meeting, Attorney General Moylan advised me that upon vetoing Bill 12-37, I should allow the legislature 14 days to attempt an override of my veto. He further advised me that if the Legislature fails to override my veto at that time, I should proceed with signing the lease. Pursuant to the advice of Attorney General Moylan, I plan to sign the lease for the use of Eagles Field as a location for the new public hospital for Guam no later than April 3, 2023. During recent media interviews, Attorney General Moylan has confirmed that he intends to complete his legal review of the lease documents in the same time frame.

In an effort to effectuate their own political agendas, these obstructionist politicians have championed the passage of two bills. Bill 12-37, which seeks to require legislative approval of all leases with the federal government, was passed for the express purpose of interfering with the Eagles Field Lease. Similarly, Bill 13-37 seeks to designate additional individuals, including members of the Legislature, as members of the committee authorized to participate in the procurement of contractors for the medical complex.

Let's be clear: these bills are not about transparency, they are about *control*. These obstructionist politicians are frustrated with the fact that they cannot *direct* or *control* the executive branch's efforts to establish the new hospital. Their intense thirst for power has driven these politicians to mislead and manipulate our people to support their political ends.

The legal reality is that the Legislature was *never* intended to have control over the establishment, operation, or maintenance of public health facilities, including hospitals. These powers have always been delegated by the Organic Act to the governor of Guam. The Legislature does not have the authority to confer these powers on itself. Transferring these powers to the Legislature will require an act of Congress to amend the Organic Act. The Governor's authority over the establishment of a hospital is supported by the express language of the Organic Act, as well as

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opinions interpreting the Organic Act issued by the Guam Supreme Court and the United States Court of Appeals for the Ninth Circuit.

It is important that the work of establishing a hospital is performed by subject matter experts in our executive branch agencies. As interested as the Legislature is in controlling every aspect of governance on our island, there are compelling reasons why they should exercise restraint. The Legislature can't even fix the schools, power they expressly lobbied the U.S. Congress to transfer to their branch and away from the governor. Power comes with responsibility. Before seeking more power, perhaps the Legislature should work to fulfill its existing responsibilities.

For these reasons, I hereby veto Bill Nos. 12-37 (COR) and 13-37 (COR). I ask the members of the 37th Guam Legislature who do not share the political appetites and ambitions of the obstructionist politicians among their ranks, to sustain my veto of these bills, support the execution of the Eagles Fields Lease, and pave the way for the construction of a new medical facility for the benefit of our people.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

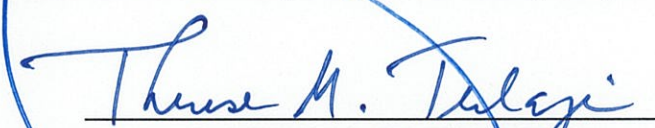
Enclosure: VETO - Bill No. 12-37 (COR) and Bill No. 13-37 (COR)

cc via email: The Honorable Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws


I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 12-37 (COR), "AN ACT TO AMEND § 60112 OF CHAPTER 60, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING PRIOR APPROVAL FROM THE LEGISLATURE BEFORE PURCHASING OR ENTERING INTO A LEASE, LICENSE, OR SUBLEASE OF PROPERTY OWNED BY THE FEDERAL GOVERNMENT, FOREIGN GOVERNMENT, OR SUBENTITIES THEREOF FOR A TERM IN EXCESS OF FIVE (5) YEARS,"** was on the 7th day of March 2023, duly and regularly passed.

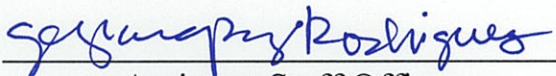

Therese M. Terlaje
Speaker

Attested:


Amanda L. Shelton
Legislative Secretary

3/20/2023

This Act was received by *I Maga'hågan Guåhan* this 8th day of March,
2023, at 2:01 o'clock P.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 3/20/2023

Public Law No. _____

2023-18776

Georgiana
Rodrigues
RCVD AT CENTRAL FILES
MAR 8 '23 PM2:01

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 12-37 (COR)

As amended on the Floor.

Introduced by:

Therese M. Terlaje
Frank Blas, Jr.
Chris Barnett
Joanne Brown
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Telo T. Taitague
Tina Rose Muña Barnes
Roy A. B. Quinata
William A. Parkinson
Sabina Flores Perez
Joe S. San Agustin
Dwayne T. D. San Nicolas
Amanda L. Shelton

AN ACT TO *AMEND* § 60112 OF CHAPTER 60, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING PRIOR APPROVAL FROM THE LEGISLATURE BEFORE PURCHASING OR ENTERING INTO A LEASE, LICENSE, OR SUB-LEASE OF PROPERTY OWNED BY THE FEDERAL GOVERNMENT, FOREIGN GOVERNMENT, OR SUBENTITIES THEREOF FOR A TERM IN EXCESS OF FIVE (5) YEARS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds

that legislative approval is required when government-owned real property is to be

1 sold, leased, sub-leased, exchanged or otherwise transferred. However, no local
2 statute currently exists regarding property that is sold, leased, sub-leased or
3 licensed to the government of Guam by the federal government, foreign
4 governments, or subentities thereof. The absence of a local statute regarding these
5 types of properties risks incurring obligations without any public input, and
6 counteracts a transparent and consistent policy.

7 Therefore, it is the intent of *I Liheslaturan Guåhan* to maintain consistency
8 in local policies related to the sale, lease, sub-lease, and license of real property on
9 Guam, and ensure transparency when the government of Guam purchases or enters
10 into a lease, license, or sub-lease of property owned by the federal government,
11 foreign governments, or subentities thereof.

12 **Section 2.** § 60112 of Chapter 60, Title 21, Guam Code Annotated, is
13 hereby *amended* to read:

14 **“§ 60112. Legislative Approval Required.**

15 (a) Notwithstanding any other provisions of law, government-
16 owned real property shall not be sold, leased, sub-leased, exchanged or
17 otherwise transferred without the prior approval of *I Liheslatura* (the
18 Legislature) by duly enacted legislation, which specifically authorizes a
19 particular sale, lease, exchange or transfer, and includes the real property
20 description of the government-owned real property with particularity, and a
21 Department of Land Management recorded map showing the alienated
22 parcel and the remaining parcel of the original lot.

23 (b) Notwithstanding any other provisions of law, the government
24 of Guam, its various departments and agencies, including autonomous or
25 semiautonomous agencies, shall not purchase or enter into a lease, license,
26 or sub-lease of property owned by the federal government, foreign

1 governments, or subentities thereof, for a term in excess of five (5) years,
2 without the prior approval of *I Liheslatura* (the Legislature) by duly enacted
3 legislation, which specifically authorizes a particular sale, lease, license, or
4 sub-lease.

5 (c) This Section shall not apply to the Land for the Landless
6 Program, or residential leases, subsistence agricultural leases and
7 subsistence aquaculture leases by the Chamorro Land Trust Commission
8 pursuant to its rules and regulations, but shall apply to any transfer to the
9 federal government or any agent of the federal government of land owned
10 in the name of the government of Guam, including, but not limited to, its
11 autonomous agencies, public corporations, the Chamorro Land Trust
12 Commission, and the Guam Ancestral Lands Commission.”

13 **Section 3. Severability.** The provisions outlined in this Act are declared
14 to be separate and severable. The invalidity of any clause, sentence, paragraph,
15 subdivision, section or portion of this statute, or the invalidity of the application
16 thereof to any person or circumstance shall not affect the validity of the remainder
17 of this statute or the validity of its application to other persons or circumstances.

18 **Section 4. Effective Date.** This Act shall be effective upon enactment.